

ALL ISLAND SCHOOL COMMITTEE OF MARTHA'S VINEYARD PUBLIC SCHOOLS
SUPERINTENDENCY UNION #19
Edgartown School Committee
Oak Bluffs School Committee
Tisbury School Committee
Martha's Vineyard Regional High School Committee
Up-Island Regional School Committee

6:00PM, Wednesday, August 18, 2021
Zoom Meeting

Present: Chair – Kate DeVane (UI), Vice Chair – Michael Watts (TIS)
Up-Island Roxanne Ackerman, Kate DeVane*, Robert Lionette, Skipper Manter*, Alex Salop
Tisbury Jennifer Cutrer, Amy Houghton, Michael Watts
Oak Bluffs Kris O'Brien, Kathryn Shertzer
Edgartown Kelly McCracken, Louis Paciello
Others: About 75 attendees including: Attorney Sean Sweeney, Attorney Paige Tobin, Marni Lipke
Shared Services Office Superintendent – Matthew D'Andrea, Asst. Superintendent – Richie Smith, School Business
Administrator – Mark Friedman, Administrative Assistant – Ruda Stone
Principals MVRHS – Sara Dingley, Chilmark – Susan Stevens, Edgartown – Shelley Einbinder,
Tisbury – John Custer, West Tisbury – Donna Lowell-Bettencourt
MVEA Spencer D'Agostino, Nedine Cunningham
FinComs Oak Bluffs – Maura McGroarty
Press MV Times – Lucas Thors, MVTV
Recorder Teresa Kruszewski *Late arrivals or early departures of AISC members (see * in text)

Call to Order

(Agenda Item #I)

The All-Island School Committee (AISC) meeting was called to order at 6:02 PM by Chair Kate DeVane. In order to facilitate the technology: the meeting was being recorded; video cameras should be off except for AISC members or Administrators or when actively participating; attendees were asked to identify themselves with first and last names; the chat feature was turned off. *(Recorder's Note: Discussions are summarized and grouped for clarity and brevity).*

Chair DeVane stated this meeting was being conducted as an information session only; a discussion with our lawyers to understand all that is involved with a COVID vaccination mandate. The purpose of this meeting was a fact gathering session, before making any decision or motion toward mandating vaccinations. The public would have time for their questions, instructed to use the Zoom 'hand raise' feature to be recognized.

Superintendent's Report

(Agenda Item # II)

A. Discussion with MV Public Schools' Attorneys Re: Covid Vaccine Options for Staff & Students

Superintendent Matthew D'Andrea welcomed two attorneys that have worked with the school district for many years; Paige Tobin and Sean Sweeney.

Atty. Tobin, from the firm MURPHY, LAMERE & MURPHY, P.C., assists students and families with discipline issues and special education services; she developed the legal opinion that outlines the legal landscape for a student vaccination mandate. *(**Document on file: Opinion re COVID Vaccine Requirement(1).pdf)*

**(Skipper Manter joins the meeting.)*

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The law:

An old body of law allows school districts to make health and safety requirements beyond the statewide minimum immunization standard of the Department of Public Health (DPH), when there are health and safety issues at play. The seminal case from 1907: The Massachusetts Supreme Judicial Court, the highest court in the Commonwealth of Massachusetts, stated the local school committee had the authority when smallpox was prevalent in the town, to make a regulation excluding from attendance all unvaccinated children. This remains current case law; it has never been overturned, but there hasn't been a current law to confirm it.

Atty. Tobin - Overview and Highlights:

- Current Centers for Disease Control and Prevention (CDC) guidance supports the use of vaccines as a primary mitigation measure and continued use of masks for prevention.
- Massachusetts Department of Elementary and Secondary Education (DESE) does not address vaccines and will not issue any guidance prior to the beginning of the school year.
- The Department of Public Health (DPH) is not mandating the vaccine.
- In our opinion, it is our recommendation that a case for mandating vaccines would be stronger if the local Board of Health (BOH) was in support of that mandate; collaboration with the local BOH to mandate vaccines.
- Caution was urged about equity and disparity of vaccination rates among various racial and ethnic groups. Availability and accessibility of vaccinations among the total community must be taken into consideration prior to making the decision to mandate vaccines.

Labor Attorney Sweeney works on legal issues with the staff, collective bargaining agreements and other personnel matters; he reviewed the legal implications of a vaccine mandate for staff as detailed in the letter to Thomas Scott, Executive Director of The Massachusetts Association of School Superintendents (M.A.S.S.) from Mike Long and Leslie Carey, Long & DiPietro, LLP, RE: Legal Update: Evolving Mask Guidance and Related Vaccination Issues.

*(**Document on file: Legal Update Re. Masks and Vaccination 8.6.21mjfinal1249pm.docx)*

***Documents were made available to the committee prior to the meeting for review.*

Atty. Sweeney - Overview and Highlights:

- Federal anti-discrimination law states employers can require a vaccination as a condition of accessing the workplace. Specific requirements must be followed in order to comply with these federal laws; must entertain requests for accommodations for health and/or religious reasons which would preclude them from vaccinations.
- State anti-discrimination laws are less detailed, but Atty. Sweeney feels fairly confident the state would authorize a vaccine mandate.
- Anticipate bargaining for this sort of mandate with the Unionized workforce. What would be the give backs for those that would request accommodations? E.g. Regular testing; enhanced Personal Protective Equipment (PPE); schedule accommodations.
- Be mindful there might be groups that would want to litigate this issue and the associated costs.
- Be aware of privacy issues.
- Occupational Safety and Health Administration (OSHA) should always be a consideration.

Both attorneys shared their support for mandating vaccines if done in conjunction/as a joint-effort with the local BOH.

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AISC DISCUSSION:

The following questions (Q) were posed by AISC members, responses (A) were from Atty.'s Tobin and Sweeney.

1. Q: Has the teachers union stated a policy at this time?
A: Massachusetts Teachers Association (MTA) publicly supported vaccine mandates for staff and students who are eligible. Understanding with the mandate, the opportunity to bargain with local school districts on issues around ensuring accommodations for those unable to get them would be met.
2. Q: Is there any in the state or anywhere else that has set a precedence with mandating vaccines?
A: Not aware of another district that has mandated vaccines, however mandates for athletes are under review.
3. Q: From a practical standpoint, is the recommendation to work behind the BOH and not in front?
A: This is a public health issue and collaboration with the local BOH is advised. It is important to recognize they are public health experts and their recommendation should be at the forefront of all other decisions.
4. Q: There is much hesitancy around the vaccines in emergency use authorization (EUA) status. Without full approval by the FDA people are not getting vaccinated due to fears there hasn't been enough time to fully research and study. This cannot be compared to the smallpox case, based on time for research and study.
5. Q: Why have the elected officials not taken the steps to mandate this? Why has the government not stepped up to make this decision?
A: DESE is taking the stance to keep decisions local; this is a matter of local decisions.

**(Chair DeVane leaves the meeting at 6:47pm. Vice Chair Michael Watts conducts the meeting from this point.)*

6. Q: What if the vaccines don't work, or are no longer relevant years later, if we are forcing people to get vaccinated against their will, are we liable then?
A: People would not be forced, they would be offered the option to work somewhere else.
7. Q: We live on an island where they cannot go somewhere else without hardship. Would that leave us open to litigation?
A: There are always cases to be heard, and with no guarantees. Nationally people are being encouraged to get vaccinated indicating it is the leading tool to mitigate the pandemic.
8. Q: Are we unique in talking about mandating vaccines and wearing masks? Are we over cautious? What would your advice be as our attorney, how do you feel about going ahead with mandating vaccinations and mask wearing?
A: This is not at all unusual, districts are being forced to deal at a local level. However, at this time there doesn't seem to be much happening with mandates; this district would be unusual.
9. Q: What should the procedure be to open a discussion with the Union, should we start the conversation or should we have a hard position beforehand?
A: It is advised to make decisions before initiating conversations with the Union.
10. Q: All the people that would have been vaccinated have done so already, how would a mandate change this?
11. Q: Can we ask teachers for proof of vaccination?
A: In the absence of a mandate, it would have to be reviewed by the Equal Employment Opportunity Commission (EEOC) to understand what can be asked.
12. Q: What does support from the local BOH look like, to have them on board with a vaccine mandate?
A: If they would convene a meeting specifically for this and are comfortable doing so. Similar to contact tracing and quarantining, the BOH is charged with looking at data and making health decisions and how best to implement in the schools.
13. Q: Why would we go to the BOH if there isn't a mandate from anywhere within the state (DESE, etc)?

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A recess of the AISC is called at 7:10 PM

The AISC recessed to allow the local school committees to vote, those that did not have a quorum at the August 12 AISC meeting, to amend the current Mask Policy as follows: *STUDENTS AND FACULTY OUTSIDE OF THE BUILDINGS ARE NOT REQUIRED TO WEAR MASKS.*

- **THE EDGARTOWN SCHOOL COMMITTEE (ESC) WAS CALLED TO ORDER AT 7:11 PM.**

LOUIS PACIELLO MOVED TO AMEND THE CURRENT MASK POLICY AS FOLLOWS: STUDENTS AND FACULTY OUTSIDE OF THE BUILDINGS ARE NOT REQUIRED TO WEAR MASKS; KELLY MCCRACKEN SECONDED; MOTION PASSED UNANIMOUSLY: 2 AYES, 0 NAYS, 0 ABSTENTIONS. MS. MCCRACKEN—AYE AND MR. PACIELLO—AYE.

LOUIS PACIELLO MOVED TO ADJOURN THE MEETING AT 7:12 PM; KELLY MCCRACKEN SECONDED; MOTION PASSED UNANIMOUSLY: 2 AYES, 0 NAYS, 0 ABSTENTIONS. MS. MCCRACKEN—AYE AND MR. PACIELLO—AYE.

- **THE OAK BLUFFS SCHOOL COMMITTEE (OBSC) WAS CALLED TO ORDER AT 7:13 PM.**

KRIS O'BRIEN MOVED TO AMEND THE CURRENT MASK POLICY AS FOLLOWS: STUDENTS AND FACULTY OUTSIDE OF THE BUILDINGS ARE NOT REQUIRED TO WEAR MASKS; KATHRYN SHERTZER SECONDED; MOTION PASSED UNANIMOUSLY: 2 AYES, 0 NAYS, 0 ABSTENTIONS. MS. O'BRIEN—AYE AND MS. SHERTZER—AYE.

KRIS O'BRIEN MOVED TO ADJOURN THE MEETING AT 7:14 PM; KATHRYN SHERTZER SECONDED; MOTION PASSED UNANIMOUSLY: 2 AYES, 0 NAYS, 0 ABSTENTIONS. MS. O'BRIEN—AYE AND MS. SHERTZER—AYE.

The AISC reconvened at 7:14 PM

Public Comment

(Agenda Item #III)

Moving forward with a forced mandate, companies that make vaccines are not liable for adverse reactions, so who is liable? Something to really consider.

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Topics not reasonably anticipated by the Chair

(Agenda Item #IV)

None.

Adjournment

(Agenda Item #V)

ALEX SALOLP MOVED TO ADJOURN AT 7:26 PM; KRIS O'BRIEN SECONDED; MOTION PASSED UNANIMOUSLY: 11 AYES, 0 NAYS, 0 ABSTENTIONS: MS. ACKERMAN—AYE, MS. CUTRER—AYE, MS. HOUGHTON—AYE, MR. LIONETTE—AYE, MR. MANTER—AYE, MS. MCCRACKEN—AYE, MS. O'BRIEN—AYE, MR. PACIELLO—AYE, MR. SALOP—AYE, MS. SHERTZER—AYE AND MR. WATTS—AYE.

Documents on File:

- AISC Agenda 8.18.21.pdf
- AISC Agenda 8.18.21 Revised.pdf
- Legal Update Re. Masks and Vaccination 8.6.21mjlfinal1249pm.docx
- Opinion re COVID Vaccine Requirement(1).pdf